Draft Order laid before Parliament under section 240(6) of the Local Government and Public Involvement in Health Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. XXXX

LOCAL GOVERNMENT, ENGLAND

The Wiltshire (Structural Change) Order 2008

*Made - - - - *** 2008*

Coming into force in accordance with article 1

This Order implements, without modification, a proposal, submitted to the Secretary of State for Communities and Local Government under section 2 of the Local Government and Public Involvement in Health Act 2007(**1**), that there should be a single tier of local government for the county of Wiltshire.

That proposal was made by Wiltshire County Council.

The Secretary of State did not make a request under section 4 of the Local Government and Public Involvement in Health Act 2007 (request for Boundary Committee for England's advice).

Before making the Order the Secretary of State consulted the following about the proposal—

(a) every authority affected by the proposal(**2**) (except the authority which made it); and

(b) other persons the Secretary of State considered appropriate.

The Secretary of State for Communities and Local Government makes this Order in the exercise of the powers conferred by sections 7, 11, 12, and 13 of the Local Government and Public Involvement in Health Act 2007:

PART 1

GENERAL

Citation and commencement

2. This Order may be cited as the Wiltshire (Structural Change) Order 2008 and shall come into force on the day after that on which it is made.

(**1**) 2007 c.28. *See* section 21(3) as to proposals made in response to pre-commencement invitations, and section 23(3).
(**2**) *See* section 7(4) as to authorities "affected by" a proposal for the purposes of that section.

Interpretation

3. In this Order—

"the 2007 Act" means the Local Government and Public Involvement in Health Act 2007;

"the 2000 Act" means the Local Government Act 2000(**3**);

"the 1972 Act" means the Local Government Act 1972(**4**);

"article 7 functions" means the functions referred to in article 7;

"the 2009 election day" means the ordinary day of election of councillors(**5**) in 2009;

"the district councils" means the councils specified in article 4(b);

"the Implementation Executive" means the committee established (whether before or after the coming into force of this Order) for the purposes of article 6(3);

"the main transitional function" has the meaning given by article 6(1);

"the Wiltshire council" means the council of the county of Wiltshire; and

"Wiltshire", except in the definition of "the Wiltshire council" and the second mention in article 3(2), means the county of Wiltshire.

PART 2

ESTABLISHMENT OF SINGLE TIER LOCAL GOVERNMENT IN WILTSHIRE

Single tier local government in Wiltshire

4.—(1) On and after 1st April 2009 the Wiltshire council shall be the sole principal authority for Wiltshire, and there shall be no district councils in Wiltshire.

(2) For the purposes of enactments relating to local government, there shall be a new district, whose area shall be co-terminous with Wiltshire; and the name of that new district shall be Wiltshire.

Abolition of districts and winding up and dissolution of district councils

5. On 1st April 2009—

(a) the following districts shall be abolished—

(i) Kennet,

(ii) North Wiltshire,

(iii) Salisbury, and

(iv) West Wiltshire; and

(b) the following councils shall be wound up and dissolved—

(i) Kennet District Council,

(ii) North Wiltshire District Council,

(iii) Salisbury District Council, and

(iv) West Wiltshire District Council.

(**3**) 2000 c.22.
(**4**) 1972 c.70.
(**5**) *See* section 37 of the Representation of the People Act 1983 (c.2).

Cessation of term of office of district councillors

6. Every person who holds office as a councillor of one of the district councils immediately before 1st April 2009 shall cease to hold office on that date.

PART 3

TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE

Transitional functions of the Wiltshire council and establishment of Implementation Executive

7.—(1) On the coming into force of this Order there shall be added to the functions of the Wiltshire council the function, which is to be exercisable only during the transitional period ending on 1st April 2009, of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities ("the main transitional function").

(2) Section 15 of the 2000 Act (discharge of functions: leader and cabinet executive) shall have effect in relation to the Wiltshire council and—

(a) the main transitional function, and

(b) the other transitional functions referred to in article 7 ("the article 7 functions"),

as if, in subsection (1), after the words "19 or 20," there were inserted "or under the Wiltshire (Structural Change) Order 2008,".

(3) The Wiltshire council's executive arrangements shall provide for the discharge of the main transitional function and the article 7 functions to be the responsibility of a committee of the council's executive, to be known as the Implementation Executive.

(4) Such statutory provisions as apply to, or in relation to, committees of a local authority's executive shall apply to, or in relation to, the Implementation Executive subject only to paragraphs (5), (6) and (8) to (11) of this article and article 8(2) to (4); and for this purpose "statutory provisions" includes —

(a) any enactment contained in an Act passed after the making of this Order; and

(b) any instrument made at any time under an enactment (including an enactment contained in an Act passed after the 2007 Act).

(5) The Implementation Executive shall consist of—

(a) the person who, for the time being, is the leader of the Wiltshire council's executive;

(b) eight persons nominated by the Wiltshire council who, for the time being, are members of that council; and

(c) eight other persons, of whom each of the district councils shall nominate two, being persons who, for the time being, are members of the council by which they are nominated (whether or not including the leaders for the time being of those councils).

(6) In making the nominations referred to in paragraph (5)(b) and (c), the Wiltshire council and the district councils shall, to the extent that it is practicable to do so, secure that at all times the Conservative Party, the Labour Party and the Liberal Democrats are each represented on the Implementation Executive by at least one member.

(7) It shall be the duty of the Wiltshire council and each of the district councils to co-operate in the establishment of the Implementation Executive.

(8) The leader of the Implementation Executive shall be the person who is for the time being the leader of the Wiltshire council's executive; and that person shall preside at all meetings of the Implementation Executive at which he is present.

(9) The persons who, immediately before 1st April 2009, are members of the Implementation Executive by virtue of paragraph (5)(c) shall continue as members of the Executive notwithstanding that they cease on that date to be members of the district councils.

(10) The Implementation Executive shall regulate its own proceedings, but a question to be decided by the Executive shall, in the first instance, be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the leader of the Executive) having one vote.

(11) In the case of an equality of votes, the person presiding at the meeting (whether or not the leader of the Executive) shall have a casting vote, in addition to any other vote the person may have.

Other transitional functions

8.—(1) The other transitional functions referred to in article 6(2)(b), which are to be exercisable only during the transitional period ending on 1st April 2009, are—

(a) such executive and non-executive functions of the Wiltshire council as exist on the date on which this Order is made; and

(b) such other functions (including functions exercisable by all or any of the district councils, and functions conferred on or after that date on local authorities generally or on particular classes of local authority),

as, by any of the means mentioned in paragraph (2), the Secretary of State may specify.

(2) The means referred to in paragraph (1) are—

(a) this Order,

(b) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend),

(c) an order under section 20 of the 2007 Act (correction of orders), and

(d) regulations under section 14 of the 2007 Act (regulations for supplementing orders).

Discharge of functions by Implementation Executive

9.—(1) The discharge of the main transitional function and the article 7 functions shall be a responsibility of the Implementation Executive, and shall not be a responsibility of the executive of the Wiltshire council.

(2) Section 15(7) of the 2000 Act (which enables a committee of a local authority executive to arrange for the discharge of its functions by an officer of the authority) shall have effect in relation to the Implementation Executive as if—

(a) references to functions included references to responsibilities, and

(b) the reference to an officer of the authority included a reference to—

(i) a sub-committee of the Implementation Executive, and

(ii) an officer of any of the district councils.

(3) Section 15(9) of the 2000 Act (which enables a person who has made arrangements for the discharge by another person of any function of his, to discharge that function himself) shall have effect in relation to arrangements made under subsection (7) of that section (as modified by paragraph (2) above) as if —

(a) references to functions included references to responsibilities, and